



New Jersey Department of Children and Families Policy Manual

Manual:	NJAC	NJ Administrative Code Excerpts	Effective Date:
Title	10	Human Services	
Chapter	122	Manual of Requirements for Child Care Centers	8/6/2009
Subchapter:	4	Staff Requirements	
Section	10	Criminal History Record Information background check procedures (N.J.A.C. 10:122-4.10)	

§10:122-4.10 Criminal History Record Information background check procedures

(a) As a condition of securing a license or Certificate of Life/Safety Approval, the sponsor/sponsor representative shall ensure that a Criminal History Record Information (CHRI) fingerprint background check is completed for himself or herself, and for all staff members at least 18 years of age who are or will be working at the center on a regularly scheduled basis, to determine whether any such person has been convicted of a crime, as specified in P.L. 2000, c. 77 (N.J.S.A. 30:5B-6.10 to 6.17).

1. The sponsor/sponsor representative and each staff member shall complete the electronic fingerprinting process through the vendor authorized by the State to conduct CHRI background checks through the Division of State Police in the Department of Law and Public Safety and the Federal Bureau of Investigation.

2. The sponsor/sponsor representative and each staff member shall provide the identifying information and documentation to the State-authorized vendor as necessary to conduct a CHRI background check, including the individual's name, address, date of birth, place of birth, citizenship, sex, race, height, weight, hair color, eye color, Social Security number, and the center's license number.

3. If a staff member refuses to consent to a CHRI background check, the sponsor/sponsor representative shall immediately terminate the staff member's employment at the center.

4. If the sponsor/sponsor representative refuses to consent to a CHRI background check, the Department shall deny the application or suspend, revoke, or refuse to renew the license or Certificate of Life/Safety Approval, as applicable. The sponsor/sponsor representative may appeal the denial, suspension, revocation, or refusal to renew to the Department, as specified in N.J.A.C. 10:122-2.5.

5. When a person who is not required to complete a CHRI background check is working with children at the center, the center shall ensure oversight of that person by another staff member.

(b) When the center applies for a new license or Certificate of Life/Safety Approval, or its first renewal license or Certificate of Life/Safety Approval subsequent to January 26, 2001 (the effective date of P.L. 2000, c. 77), the sponsor/sponsor representative shall ensure that each staff member at least 18 years of age who is or will be working at the center on a regularly scheduled basis completes the CHRI fingerprinting process specified in (a) above.

1. Within two weeks after a new staff member begins working at the center, the sponsor/sponsor representative shall ensure that the new staff member completes the CHRI fingerprinting process specified in (a) above.

2. Until the center receives the results of the CHRI background check from the Department for a new staff member, the center shall ensure that a current staff member is present whenever the new staff member is caring for children at the center.

(c) An individual shall be permanently disqualified from employment at, or ownership or sponsorship of, a child care center if the CHRI background check for the individual reveals a record of conviction for any of the following crimes and offenses:

1. In New Jersey, any crime or disorderly persons offense as follows:

i. A crime against a child, including endangering the welfare of a child and child pornography, pursuant to N.J.S.A. 2C:24-4, and child molestation, as set forth in N.J.S.A. 2C:14-1 et seq.;

ii. Abuse, abandonment or neglect of a child, pursuant to N.J.S.A. 9:63;

iii. Endangering the welfare of an incompetent person, pursuant to N.J.S.A. 2C:24-7;

iv. Sexual assault, criminal sexual contact or lewdness, pursuant to N.J.S.A. 2C:14-2 through 14-4;

v. Murder, pursuant to N.J.S.A. 2C:11-3, or manslaughter, pursuant to N.J.S.A. 2C:11-4;

vi. Stalking, pursuant to P.L. 1992, c.209 (N.J.S.A. 2C:12-10);

vii. Kidnapping and related offenses including criminal restraint, false imprisonment, interference with custody, criminal coercion, or enticing a child into a motor vehicle, structure or isolated area, pursuant to N.J.S.A. 2C:13-1 through 13-6;

viii. Arson, pursuant to N.J.S.A. 2C:17-1, or causing or risking widespread injury or damage which would constitute a crime of the second degree, pursuant to N.J.S.A. 2C:17-2;

ix. Terroristic threats, pursuant to N.J.S.A. 2C:12-3; or

x. An attempt or conspiracy to commit any of the crimes or offenses listed in (c)1i through ix above; or

2. In any other state or jurisdiction, any conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in (c)1 above.

(d) Upon receipt of the results of the CHRI background check from the Division of State Police and the Federal Bureau of Investigation, the Department shall inform the sponsor/sponsor representative and the staff member in writing as to whether any record of conviction by the sponsor/sponsor representative or staff member has been found.

(e) If the CHRI background check does not reveal any record of conviction by the sponsor/sponsor representative or a staff member, the Department may issue or renew the regular license or Certificate of Life/Safety Approval, provided that all other applicable requirements of this manual have been met.

(f) If the CHRI background check reveals a record of conviction by the sponsor/sponsor representative or a staff member, the Department shall inform the convicted individual of the opportunity to challenge the accuracy of the CHRI.

(g) If the CHRI background check reveals a record of conviction by a staff member for a crime or offense specified in (c) above, the sponsor/sponsor representative shall immediately terminate the staff member's employment at the center.

(h) If the CHRI background check reveals a record of conviction by the sponsor/sponsor representative for a crime or offense specified in (c) above, the Department shall deny the application or revoke or refuse to renew the license or Certificate of Life/Safety Approval, as applicable.

(i) If the CHRI background check reveals a record of conviction by the sponsor/sponsor representative or a staff member for a crime or offense other than those specified in (c) above, the sponsor/sponsor representative or staff member may be eligible for employment at, or ownership, or sponsorship of, a child care center if the Department determines that the person has affirmatively demonstrated to the Department clear and convincing evidence of rehabilitation.

1. In determining whether a person has affirmatively demonstrated rehabilitation, the Department shall consider the following factors:

i. The nature and responsibility of the position at the child care center which the convicted person would hold, has held or currently holds, as the case may be;

ii. The nature and seriousness of the offense;

iii. The circumstances under which the offense occurred;

iv. The date of the offense;

v. The age of the person when the offense was committed;

vi. Whether the offense was an isolated or repeated incident;

vii. Any social conditions which may have contributed to the offense; and

viii. Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the person under their supervision.

2. The Department shall make the final determination regarding the employment of a sponsor/sponsor representative or staff member with a criminal conviction.

(j) If the sponsor/sponsor representative has knowledge that criminal charges are pending against a staff member, the sponsor/sponsor representative shall promptly notify the Office of Licensing to determine whether any action concerning the staff member is necessary in order to ensure the safety of the children who attend the center.

(k) A center that has received an employment application from an individual or currently employs a staff member shall be immune from liability for acting upon or disclosing information about the staff member's disqualification or termination to another center seeking to employ that person, if the center has:

1. Received notice from the Department that the applicant or staff member, as applicable, has been determined by the Department to be disqualified from employment in a child care center pursuant to section 5 or 6 of P.L. 2000, c. 77 (N.J.S.A. 30:5B-6.14 or 6.15); or

2. Terminated the employment of a staff member because the person was disqualified from employment at the center on the basis of a conviction for a crime or offense pursuant to section 5 or 6 of P.L. 2000, c.77 (N.J.S.A. 30:5B-6.14 or 6.15) after commencing employment at the center.

(l) A center which acts upon or discloses information pursuant to (k) above shall be presumed to be acting in good faith unless it is shown by clear and convincing evidence that the center acted with actual malice toward the person who is the subject of the information.